

R.S-H. asks the Utah Labor Commission to review Administrative Law Judge Hann's dismissal of Ms. S-H.'s claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Ann.).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Ann. §63-46b-12 and Utah Code Ann. §34A-2-801(3).

BACKGROUND AND ISSUE PRESENTED

On March 21, 2003, Ms. S-H. filed an application with the Commission to compel the Airport Hilton Inn ("Hilton" hereafter) to pay workers' compensation benefits for an injury Ms. S-H. allegedly suffered at work on March 5, 2002. On July 14, 2003, Rick Lundell entered his appearance as Ms. S-H.'s counsel.

Judge Hann scheduled an evidentiary hearing for February 17, 2004. Ms. S-H. and her attorney were in attendance, as was counsel for Hilton. At the commencement of the hearing, Ms. S-H.'s attorney advised that Ms. S-H. wished to withdraw her claim. Judge Hann confirmed this with Ms. S-H. and, with consent of Hilton's attorney, dismissed Ms. S-H.'s claim without prejudice.

On March 1, 2004, the Commission received Ms. S-H.'s written statement that she did not want to withdraw her claim and that she continued to suffer problems from the alleged work-related injuries.

DISCUSSION AND DECISION

The record shows that Ms. S-H., through counsel and also by her own statement, affirmatively asked that her claim be withdrawn. While Ms. S-H. may have experienced a change of heart, she has presented no reason for the Commission to conclude that her decision to withdraw was not knowing and voluntary. The Commission therefore declines to reinstate her claim.

However, the Commission hereby specifically advises Ms. S-H. that she may renew her claim by filing a new application for hearing if she continues to believe her claim is valid.

ORDER

The Commission affirms Judge Hann's dismissal of Ms. S-H.'s application and denies Ms. S-H.'s motion for review. It is so ordered.

Dated this 3rd day of August, 2004.

R. Lee Ellertson, Commissioner